
Appeal Decision

Site visit made on 12 December 2016

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29th December 2016

Appeal Ref: APP/D3125/W/16/3159205

2A the Crofts, Witney, Oxfordshire OX28 4AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Jack James Homes against the decision of West Oxfordshire District Council.
 - The application Ref 16/00915/S73, dated 1 March 2016, was refused by notice dated 26 April 2016.
 - The application sought planning permission for erection of office and five flats with associated parking without complying with a condition attached to planning permission Ref 14/0313/F/FP, dated 28 April 2014.
 - The condition in dispute is No 9 which states that: Notwithstanding details contained in the application, detailed specifications and drawings of all external doors, windows (including cills and heads) and eaves/verges, at a scale of not less than 1:20 including details of external finishes and colours shall be submitted to and approved in writing by the Local Planning Authority before development commences. The Development shall be carried out in accordance with the approved details.
 - The reason given for the condition is: To ensure the architectural detailing of the buildings reflects the established character of the area.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The background to this appeal is somewhat complex. Samples of timber framed units were submitted and approved under the provisions of condition 9 and also along with other details required by that and condition 7 of the same permission. Accordingly, the condition has not been breached. However, the appellant erected the approved building but with the installation of uPVC windows and doors.
 3. Nevertheless, the application and appeal forms refer to variation of the condition rather than its removal, although the appellant's appeal statement does use the term 'removal'. However, the appellant has subsequently confirmed that this term was used in error and that variation of the condition is sought. In effect, what the appellant is asking of me is to grant a new permission that does not include the condition that would then allow for the retention of the installed windows and doors. I have therefore dealt with the appeal on that basis under section 73.
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4. The building is within the Witney and Cogges Conservation Area (the CA) and next to and opposite Grade II listed buildings. I therefore consider the main issue to be whether removing condition 9 and thus retaining the uPVC windows would preserve or enhance the character or appearance of designated heritage assets.

Reasons

5. The appeal building forms a new development on a former garage site close to the junction of The Crofts and Corn Street, which is a main route into the centre of the town where it meets High Street further to the east.
6. Within the Witney and Cogges CA Character Appraisal (2013) (the CA Appraisal) the appeal building is located in Area 5 - Corn Street. The CA Appraisal states that Corn Street comprises an attenuated streetscape of period houses (many of which are listed) interspersed with a distinctive mix of shops and public houses. The Crofts branches off Corn Street to the south and forms a distinctive straight and narrower side street, lined with mainly 19th-century mill workers' housing. Notably, the CA Appraisal identifies there are memorable small-scale vistas along The Crofts.
7. Immediately around the corner from the appeal site is what the appraisal describes as the 'elbow' of Corn Street where there is a fine terrace of period houses. Notably, it identifies that the architectural quality of Corn Street has already been compromised by the nature of later interventions to many of its buildings, including unsympathetic uPVC and aluminium windows.
8. The Grade II listed building next to the appeal site lies on the corner of The Crofts and Corn Street. Further the Grade II listed building opposite on the other corner, forms part of the 'elbow' and its 'fine terrace' referred to in the CA Appraisal. The scale of the appeal building is akin to that of the next door listed building and its proximity to the junction places it in a prominent location. Moreover, its scale and character sets it apart from the more low key buildings to the south. I therefore consider that the appeal building shares a greater affinity with the grouping of listed buildings along Corn Street and around its junction with The Crofts than it does to the more domestic character that can be found further to the south.
9. I accept that there are a number of buildings in The Crofts and elsewhere in the CA that have uPVC windows. However, these are set away from the historic buildings in the locations I have described above and occupy much less prominent positions than the appeal building. Moreover, many of them do not directly address the street and, as such, their fenestration does not play a strong role in defining the character of the CA.
10. I also recognise that there is some variation in the appearance of timber framed windows in surrounding buildings within Corn Street close to the appeal building. Some have a slightly bulkier appearance than others and a greater or lesser number of vertical and horizontal rails. Nevertheless, the windows in the appeal building contrast sharply with the appearance of those in the surrounding listed buildings and are further set apart by way of the uPVC material itself and the profiling of their frames. Given the proximity of the appeal building and the group of listed buildings around and near to the junction, the windows and doors appear at odds with the surroundings to which the building shares the strongest relationship.

11. I do not consider that the presence of uPVC window units elsewhere in the CA justifies the further erosion of the significance of this designated heritage asset. Moreover, the uPVC doors that have been installed appear as standard 'off-the-shelf' items that do not convey any semblance of individuality or complement the overall high quality design of the building in which they sit or those surrounding it.
12. Notwithstanding the above, the retention of the windows and doors would not fall within the realm of substantial harm to the CA or the setting of the nearby listed buildings. Nonetheless, Framework paragraph 134 is clear that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against any public benefits of the proposal, including securing its optimum viable use.
13. The appellant has put to me that uPVC units require less maintenance than timber ones, which is considered to be an important factor as the dwellings are marketed for rental. However, maintenance is a key part of looking after buildings and such considerations do not outweigh the great weight that should be given the conservation of heritage assets. It has also been put to me that the installed units provide a better level of insulation. However, no substantive evidence has been provided to support this claim and I am not persuaded that timber units could not be procured with satisfactory insulation qualities. Accordingly, I do not consider these matters to be of sufficient substance to provide the public benefits necessary to justify the retention of the uPVC windows and doors.
14. Taking all of the above into account, the proposal would fail to preserve or enhance the character or appearance of the CA and would have an unacceptable effect on the setting of the nearby listed buildings. Thus, it conflicts with the Framework and saved Policy BE5 of the West Oxfordshire Local Plan (2006) that seeks to protect the special architectural, historic and environmental character or appearance of CAs. It also conflicts with the general development standards set out in saved Policy BE2 and those relating specifically to residential development in saved Policy H2. These policies are in broad alignment with the Framework policies relating to heritage assets and good design and I give them very substantial weight.
15. In addition to the development plan policies referred to above, the proposal does not accord with the design code represented by the West Oxfordshire Design Guide (2016).
16. The Council has listed a number of policies from the emerging West Oxfordshire Local Plan 2031. However, given that the Plan is still at consultation stage, I do not afford them anything more than limited weight.

Conclusion

17. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

Hayden Baugh-Jones

Inspector